

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 MICHAEL WHITFIELD,

4 Plaintiff

5 v.

6 NEVADA STATE PERSONNEL, et. al.,

7 Defendants

Case No.: 3:20-cv-00643-MMD-WGC

**Report & Recommendation of
United States Magistrate Judge**

9 This Report and Recommendation is made to the Honorable Miranda M. Du, United
10 States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28
11 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR 1B 1-4.

12 Plaintiff has filed a pro se complaint under Title VII in this action (the 643 case).
13 (ECF No. 1-1.) The complaint filed in this action was not accompanied by an application to
14 proceed in forma pauperis or the \$400 filing fee. Plaintiff filed an identical complaint in case
15 3:20-cv-00637-MMD-WGC (the 637 case). (ECF No. 1.)¹ In the 637 case, Plaintiff paid the
16 \$400 filing fee.

17 "Plaintiffs generally have no right to maintain two separate actions involving the same
18 subject matter at the same time in the same court and against the same defendant." *Adams v. Cal.*
19 *Dep't of Health Servs.*, 487 F.3d 684, 688 (9th Cir. 2007), *overruled on other grounds by Taylor*
20 *v. Sturgell*, 553 U.S. 880 (2008). Therefore, the 643 action should be dismissed as duplicative of
21 the 637 action.

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23 ¹ The complaint in the 637 case does attach various exhibits that are not included in the 643
complaint; however, the substantive portion of the complaint is identical in the two actions.

RECOMMENDATION


IT IS HEREBY RECOMMENDED that the District Judge enter an order **DISMISSING** the 643 action as duplicative of the 637 action.

The Plaintiff should be aware of the following:

1. That he may file, pursuant to 28 U.S.C. § 636(b)(1)(C), specific written objections to this Report and Recommendation within fourteen days of being served with a copy of the Report and Recommendation. These objections should be titled “Objections to Magistrate Judge’s Report and Recommendation” and should be accompanied by points and authorities for consideration by the district judge.

2. That this Report and Recommendation is not an appealable order and that any notice of appeal pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure should not be filed until entry of judgment by the district court.

Dated: November 18, 2020



William G. Cobb
United States Magistrate Judge